

**ASSEMBLY BILL**

**No. 1263**

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**Introduced by Assembly Member Audra Strickland**

February 27, 2009

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An act to repeal and add Section 1162 of the Code of Civil Procedure, relating to unlawful detainer.

LEGISLATIVE COUNSEL'S DIGEST

AB 1263, as introduced, Audra Strickland. Unlawful detainer: service of notice.

Existing law governs unlawful detainer proceedings to effect the removal of a tenant from the property. Existing law specifies the manner of serving notice upon a tenant under those circumstances. Existing law requires service of the notice by delivering a copy to the tenant personally. If the tenant is absent from his or her place of residence, and from his or her usual place of business, existing law provides that notice may be served by leaving a copy with some person of suitable age and discretion at either place, and sending a copy through the mail addressed to the tenant at his or her place of residence. If the residence and business cannot be ascertained, or a person of suitable age and discretion there cannot be found, existing law authorizes the notice to be served by affixing a copy in a conspicuous place on the property and delivering a copy to the person there residing, if that person can be found, and by sending a copy through the mail addressed to the tenant at the place where the property is situated.

This bill would revise the provision governing the methods of serving notice upon a tenant for purposes of the unlawful detainer provisions by deleting the requirement that service be made at the tenant's place of residence or usual place of business. The bill would instead require

that service be made by delivering a copy of the notice to the tenant personally at the property, or, if the tenant is absent from the property, by leaving a copy of the notice at the property with a person of suitable age and discretion and mailing a copy of the notice to the tenant at the address of the property. If a person of suitable age and discretion cannot be found at the property, the bill would require that the notice be served by affixing a copy of the notice in a conspicuous place on the property, delivering a copy of the notice to a person residing at the property, if found, and mailing a copy of the notice to the tenant at the address of the property. The bill would define the term “property,” for purposes of these provisions, to refer to the property that is the subject of the lease.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1162 of the Code of Civil Procedure is  
2 repealed.  
3 ~~1162. The notices required by Sections 1161 and 1161a may~~  
4 ~~be served, either:~~  
5 1. ~~By delivering a copy to the tenant personally; or,~~  
6 2. ~~If he or she is absent from his or her place of residence, and~~  
7 ~~from his or her usual place of business, by leaving a copy with~~  
8 ~~some person of suitable age and discretion at either place, and~~  
9 ~~sending a copy through the mail addressed to the tenant at his or~~  
10 ~~her place of residence; or,~~  
11 3. ~~If such place of residence and business can not be ascertained,~~  
12 ~~or a person of suitable age or discretion there can not be found,~~  
13 ~~then by affixing a copy in a conspicuous place on the property,~~  
14 ~~and also delivering a copy to a person there residing, if such person~~  
15 ~~can be found; and also sending a copy through the mail addressed~~  
16 ~~to the tenant at the place where the property is situated. Service~~  
17 ~~upon a subtenant may be made in the same manner.~~  
18 SEC. 2. Section 1162 is added to the Code of Civil Procedure,  
19 to read:  
20 1162. (a) The notices required by Sections 1161 and 1161a  
21 may be served on a tenant by the following methods:  
22 (1) By delivering a copy of the notice to the tenant personally  
23 at the property.

1 (2) If the tenant is absent from the property, by leaving a copy  
2 of the notice at the property with a person of suitable age and  
3 discretion and mailing a copy of the notice to the tenant at the  
4 address of the property.

5 (3) If a person of suitable age and discretion cannot be found  
6 at the property, by doing all of the following:

7 (A) Affixing a copy of the notice in a conspicuous place on the  
8 property.

9 (B) Delivering a copy of the notice to a person residing at the  
10 property, if found.

11 (C) Mailing a copy of the notice to the tenant at the address of  
12 the property.

13 (b) Service upon a subtenant may be effected in the same manner  
14 as service upon a tenant.

15 (c) For purposes of this section, the term “property” refers to  
16 the property that is the subject of the lease.